

**A BILL FOR AN ORDINANCE AMENDING  
ORDINANCE 2350, CHAPTER 12.14  
PARKS HOURS AND PARK CLOSURE**

) **ORDINANCE BILL NO. 20**  
) **For 2008**  
)  
) **ORDINANCE NO. 2769**

**12.14.010 Definitions.**

For the purpose of this chapter, the term "park" shall have that meaning as defined in Section 12.12.015 of this code. (Ord. 2350 § 1 (part), 2003)

**12.14.020 Park hours.**

A. Lebanon Parks shall be closed to access and use by members of the public between dusk to dawn, unless a permit has been issued.

B. Permits shall be granted by the chief of police if the following occur:

1. An application, in a form prescribed by the chief of police, has been completed which identifies a specific applicant, with a designated reason for the use of the park after the hours of closure. The chief of police may also consider whether or not the applicant has reserved the park in the manner provided in Lebanon Municipal Code Section 12.12.041 in determining whether or not to approve the application. In appropriate situations, the chief of police may require the applicant to show proof of adequate liability insurance coverage, with the city listed as an insured.

2. In determining whether or not to grant a permit, the chief of police may consider the following:

A. The night of the week for which the permit is sought;

B. The specific hours past closure of the neighborhood park for which the permit is sought;

C. The number of people which may be reasonably expected at the event for which the permit is sought;

D. The noise, traffic, parking or other needs which may be required for the event for which the event is sought; or

E. Other considerations for which the neighborhood surrounding the park may require to preserve the health, safety and welfare of the neighborhood.

3. The chief of police may charge an administrative fee in the processing of the application, in an amount to be determined by the city council by resolution of the council. (Ord. 2350 § 1 (part), 2003)

**12.14.030 Prohibited behavior in public parks and facilities.**

A. No person shall sleep on the seats or benches; or make, assist in making, continue, or cause to be made any boisterous, disturbing, threatening, abusive, indecent, or obscene language or gestures or unnecessary noise; or by any other act to breach the public peace; or annoy, disturb, injure, or endanger the comfort, repose, health, safety, welfare, or peace of others while in any park or public facility.

B. No person shall enter or remain in a park or public facility while in a visibly intoxicated condition. (Ord. 2350 § 1 (part), 2003)

**12.14.040 Exclusion of persons from parks and public facilities.**

A. If a police officer has probable cause to believe that a person has violated any section of the Lebanon Municipal Code, Chapters 5.32, 6.08, 6.12, 6.14, 8.10, 9.08, 9.12, 9.16, 9.20, 12.12, or any laws of the state of Oregon while in a public park or public facility, a

police officer may exclude that person from any or all parks or public facilities for a period of not more than thirty days in accordance with the following procedure:

1. Written notice shall be given to the person to be excluded from a park or public facility. The exclusion period shall take effect immediately upon the giving of the notice.
2. The notice shall prominently specify the beginning and ending dates of the exclusion period.
3. The notice shall prominently display a trespass warning describing the potential consequences of unlawful behavior after receipt of an exclusion notice and for entering a park or public place during the exclusion period.
4. At any time within the exclusion period, a person having received a notice may apply in writing to the chief of police, or his designate, for a temporary waiver from the exclusion for good reason shown.
5. Any person receiving an exclusion notice may appeal the issuance of such notice by appealing to the city manager in a form provided for that purpose. Such written notice shall be delivered within three business days from the date of its issuance to the city recorder. The city manager shall conduct a due process hearing on the appeal within ten business days after receipt of the notice. At such hearing, the city administrator shall offer an opportunity for the appellant to offer evidence. The chief of police may appear at such hearing to provide evidence, or may supply the city administrator with any written reports concerning the reason for the exclusion order. The Oregon Rules of Evidence shall not apply at such hearing, but the city manager may rely upon such evidence as is allowed in administrative proceedings under Chapter 183 of the Oregon Revised Statutes.

B. After hearing such evidence as may be offered, the city manager may modify, affirm or reverse the decision of the chief of police as to any exclusion order made. Notice of such decision shall be sent to the appellant, in writing, at the address given by the appellant for such purpose. The decision of the city manager shall be made within five business days of the hearing.

C. The decision of the city manager shall be final and not appealable by the chief of police or by the appellant.

D The exclusion order shall remain in effect pending the decision of the city manager. (Ord. 2350 § 1 (part), 2003)

#### **12.14.050 Closure of parks.**

A. A police officer of the city of Lebanon may close any park, or any part thereof, in accordance with this section, in the interest of public safety, health and welfare in the event that conditions exist in or near the park which involve any of the following, but not limited to the following, circumstances:

1. Life or property reasonably appear to be endangered and other means cannot reasonably be utilized to eliminate the danger; or
2. An overcrowding of persons or vehicles has occurred, impairing access of emergency assistance or emergency vehicles; or
3. Park property or other property located near the park reasonably appear to be endangered; or
4. Persons making, assisting in making, continuing, or causing to be made any boisterous, disturbing, threatening, abusive, indecent, or obscene language or gestures, or unnecessary noise, or by any other act to breach the public peace; or annoying, disturbing, injuring, or endangering the comfort, repose, health, safety,

welfare or peace of others in any park or public facility, and is such consequence that cessation of the disturbance cannot otherwise be accomplished; or

5. A hazardous condition exists; or

6. That violation(s) of criminal offenses or ordinances is occurring and is caused by sufficient numbers of persons, or is of such consequence that cessation of the disturbance cannot otherwise be accomplished; or

7. Other conditions exist such that the safety of persons or property cannot reasonably be assured.

B. Closure of the park, or any part thereof, whether for an emergency or for any reason, may be accomplished at the direction of a police officer by erecting barricades prohibiting access to any such park, or any part thereof, at appropriate locations. Notice that any park, or part thereof, is closed shall be posted at appropriate locations during the period of such closure.

C. During the closure of a park, or portion thereof, it shall be unlawful for any person to enter the park, or any part thereof, that has been closed or to remain in the park, or part thereof, after having been notified of the closure and having been requested to leave the park, or portion thereof, by a police officer.

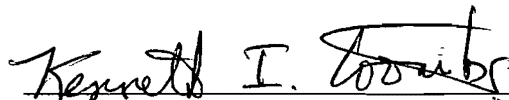
**12.14.060 Violation and penalty.**

Violation of any provision of this chapter shall be punishable by a fine not to exceed five hundred dollars. Each day of violation shall constitute a separate offense. (Ord. 2350 § 1 (part), 2003)

**12.14.070 Severability.**

Invalidity of a section or part of a section of this chapter shall not affect the validity of the remaining section or parts of sections. (Ord. 2350 § 1 (part), 2003)

Passed by the Lebanon City Council by a vote of 5 for and 0 against and approved by the Mayor this 10<sup>th</sup> day of December, 2008.

  
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Kenneth I. Toombs, Mayor   
Bob Elliott, Council President

Attested:

  
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Linda Kaser, City Clerk / Recorder